



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	04/09/08	Bill No:	SB 1161
Tax:	Underground Storage Tank Fee	Author:	Lowenthal
Related Bills:			

This analysis only addresses the provisions that impact the Board.

BILL SUMMARY

Among other things, this bill would extend the current underground storage tank fee an additional five years to January 1, 2016.

ANALYSIS

CURRENT LAW

Under current Section 25299.41 of the Health and Safety Code (Article 5 (commencing with Section 25299.40) of Chapter 6.75 of Division 20), owners of an underground storage tank are required to pay a storage fee of six mills (\$0.006) for each gallon of petroleum (including, but not limited to, gasoline and diesel fuel) placed in an underground storage tank which he or she owns. Section 25299.43 imposes an additional fee of eight mills (\$0.008) for a total underground storage fee of fourteen mills (\$0.014) per gallon. The fees, which are reported and paid to the Board of Equalization (Board), are deposited into the Underground Storage Tank Cleanup Fund and are earmarked for the cleanup of leaking tanks. This fee is due to sunset on January 1, 2011.

Current Section 25299.24 of the Health and Safety Code (Article 2, (commencing with Section 25299.10) of Chapter 6.75 of Division 20) defines “tank,” “underground storage tank,” “underground tank system,” and “tank system” as having the same meaning as defined in Chapter 6.7 (commencing with Section 25280), except that, for purposes of Chapter 6.75, these terms mean only those tanks that contain only petroleum or, consistent with the federal act, a mixture of petroleum with de minimis quantities of other regulated substances.

Health and Safety Code Section 25281, in Chapter 6.7, provides definitions for “tank,” “underground storage tank,” and “underground storage tank system” or “tank system” and provides specific exclusions of what does not constitute an underground storage tank. Furthermore, subdivision (b) of Section 25281.5 provides that “underground storage tank” does not include, among other things, vent lines, vapor recovery lines, and certain piping.

PROPOSED LAW

This bill would amend Section 25299.81 of the Health and Safety Code to change the sunset date of the underground storage tank fee from January 1, 2011, to January 1, 2016.

Additionally, this bill would amend Section 25299.24 to change the definition of “tank,” “underground storage tank,” “underground tank system” and “tank system” to have the same meaning as defined in Chapter 6.7 (commencing with Section 25280), except that:

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- These terms mean only those tanks that contain only petroleum or, consistent with the federal act, a mixture of petroleum with de minimis quantities of other regulated substances
- These terms include components that are either directly or indirectly connected to the tank, including spill containment structures that are substantially or totally beneath the surface of the ground and those portions of the vent lines, vapor recovery lines, and fill pipes that are below the surface of the ground.

BACKGROUND

The Underground Storage Tank Cleanup Fund was originally established in 1989 by SB 299 (Keene). Subsequent legislation affected fees, fund accounts, repeal dates, and various other provisions.

SB 989 (Ch. 812, Stats. 1999), among other things, last extended the sunset date to January 1, 2011.

COMMENTS

1. **Sponsor and Purpose.** According to the author's office, this bill is sponsored by 7-11, Inc. to provide an ongoing source of funds for reimbursement of expenses related to the cleanup of leaking underground storage tanks and to ensure that integral parts of the underground storage tank system are eligible for reimbursement.
2. **Extension of the underground storage tank fee would not create administrative problems for the Board.** Section 25299.51 of the Health and Safety Code allows the State Water Resources Control Board to expend revenues to pay the administrative costs of the Board.

The Board has continued its outreach efforts to educate and inform possible underground storage tank owners and operators of the existence of this program and their responsibilities. Despite the almost 20 year existence of the program, and the efforts of federal, state and local agencies, there continue to be a small number of cases where the owner has not known of the existence of the program.

3. **The change in definition of "tank" affects the funds disbursed, not the revenues collected.** The State Water Resources Control Board worked with industry representatives to address a need for fee-paying tank owners to seek reimbursement of costs if a release was attributable to a leaking vent line, vapor recovery line, or fill pipe. Conversely, this technical change does not affect the number of tank owners that are responsible for the payment of the underground storage tank fee.

COST ESTIMATE

The Board would incur non-absorbable costs to continue to administer the underground storage tank fee past its current scheduled sunset date of January 1, 2011. These costs for fiscal year 2008-09 are currently budgeted at approximately \$3.2 million.

REVENUE ESTIMATE**BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

Under current law, owners and operators of petroleum underground storage tanks pay a storage fee for each gallon of petroleum (including, but not limited to, gasoline and diesel fuel) placed in the tanks and requires the fees to be deposited in the Underground Storage Tank Cleanup Fund.

The current fee, as of January 1, 2006, is \$0.014 per gallon. According to the preliminary data from the Board's fiscal year 2006-07 Annual Report there were 7,016 storage tank owners submitting total revenues of \$251 million.

REVENUE SUMMARY

Due to the overall decline in fuel consumption in recent years, it's difficult to project the potential revenues beginning in January 2011, the date the fee extension would commence. However, our most recent reported amounts show that the Underground Storage Tank Cleanup program generates an estimated \$251 million in annual revenues.

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